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November 12, 2012

By Electronic Case Filing (ECF)

Hon. Arthur D. Spatt
United States District Court, Eastern District of New York
100 Federal Plaza, Courtroom 1020
PO Box 9014
Central Islip NY 11722

Re: *MHANY Management, Inc. v. County of Nassau, Incorporated Village of Garden City, and Garden City Board of Trustees, 05-cv-2301 (ADS) (WDW)*

Dear Judge Spatt:

I write on behalf of all of the Plaintiffs in this matter to respond to Defendants' letter, dated November 12, 2012, Dkt. No. 325, requesting that the Court remove Plaintiffs' letter of November 9, 2012 (Dkt. No. 323) from the ECF system and the public record.

Plaintiffs oppose this request. The November 9 letter was intended to advise the Court of the status of settlement negotiations, and that the parties have engaged in extensive – though unfortunately, unfruitful – settlement negotiations. No confidential information pursuant to the parties' JAMS Mediation Agreement (Exhibit A to J. Ryan Letter, dated November 12, 2012, Dkt. No. 324) was included in Plaintiffs' November 9, 2012 letter. The JAMS Mediation Agreement prohibits disclosure of "offers, promises, conduct and statements" such as are considered inadmissible as evidence pursuant to Rule 408 of the Federal Rules of Evidence. (Exhibit A to Dkt. No. 324, at Section III.) Plaintiffs' November 9 letter only generally described the course of the parties' settlement negotiations over the past eight months; in fact, Plaintiffs were quite careful not to disclose any specific offers, promises, conduct or statements made during the course of the JAMS sessions attended by the parties. Nor do Plaintiffs seek to admit evidence of any such offers, promises, conduct or statements at trial; as such, the November 9 letter is not prejudicial to Defendants' trial position.

Respectfully, the November 9 letter should remain part of the public record of this matter, and Defendants' request should be denied.¹ Plaintiffs thank the Court for its consideration.

Respectfully submitted,
/s/ Stanley J. Brown
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cc: All counsel, by ECF

¹If the Court decides to remove the November 9, 2012 letter from the ECF system, Defendants' letter at Dkt. No. 324 should also be removed; it quotes material from Plaintiffs' letter that Defendants assert is "confidential."